

come devoted to charity and the reduction of the rate of tax on capital gains were liberalizations of the law in the taxpayer's favor, were begotten from motives of public policy, and are not to be narrowly construed. Nor should the reduction in the rate of tax on capital gain, first granted in the Revenue Act of 1921, be held to circumscribe the privilege granted in the earlier Acts, and retained in later ones, with respect to charitable contributions, unless that result be plainly required by the language used. As has been shown the statutes if read as written lead to a contrary result. Moreover, from 1923 to 1932 the Commissioner uniformly ruled that the deduction for charitable contributions was to be taken from net income before computation of the tax and hence in whole from ordinary net income.<sup>8</sup> The reenactment in later Acts of the sections permitting the deduction indicate Congressional approval of this administrative interpretation.

The judgments are

*Affirmed.*

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MATTSON v. DEPARTMENT OF LABOR AND  
INDUSTRIES OF WASHINGTON.

APPEAL FROM THE SUPREME COURT OF WASHINGTON.

No. 29. Argued October 18, 1934.—Decided November 5, 1934.

1. The amendment of March 15, 1927, to the compulsory Workmen's Compensation Act of the State of Washington, limiting to three years the time within which a case may be reopened for the readjustment of compensation on account of the aggravation, diminution, or termination of the disability, does not deny due process of law to one who sustained a compensable injury while the pre-existing statute was in effect, though the latter contained no limitation as to the time within which such right might be asserted. P. 154.

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<sup>8</sup> See Corp. Trust Co., Fed. Inc. Tax Service, 1924, Par. 2033; I. T. 2104, Cum. Bull. III-2, p. 152; Mim. 3931, XI-1, C. B. 33.

2. The amendment did not deprive the claimant in this case of any vested right, but affected the remedy only, and that in a manner not unreasonable, arbitrary, or oppressive. P. 155
  3. A State may impose reasonable conditions upon the assertion of rights which are purely statutory. P. 154.
- 176 Wash. 345; 29 P. (2d) 675, affirmed.

APPEAL from a judgment affirming a judgment which dismissed an appeal from an order of the state administrative board.

*Mr. Harry E. Foster* for appellant.

*Mr. Daniel Baker* and *Mr. Miles H. McKey*, Assistant Attorney General of Oregon, with whom *Mr. G. W. Hamilton*, Attorney General of Washington, and *Miss Dorothee Scarbrough* were on the brief, for appellee.

By leave of Court, *Mr. I. H. Van Winkle*, Attorney General, *Mr. Miles H. McKey* and *Mr. Victor R. Griggs*, Assistant Attorneys General, filed a brief on behalf of the Industrial Accident Commission of Oregon, as *amicus curiae*.

MR. JUSTICE ROBERTS delivered the opinion of the Court.

Since 1911 the State of Washington has had a workmen's compensation act applicable to extrahazardous employments. Until March 15, 1927, the statute contained a section providing:

"If aggravation, diminution, or termination of disability takes place or be discovered after the rate of compensation shall have been established or compensation terminated in any case the department may, upon the application of the beneficiary or upon its own motion, readjust for further application the rate of compensation

in accordance with the rules in this section provided for the same, or in a proper case terminate the payments."<sup>1</sup>

On February 7, 1927, while the quoted section was in force, the appellant injured his arm while doing extra-hazardous work. March 15, 1927 the law was amended and the section in question was altered to provide:

"If aggravation, diminution, or termination of disability takes place or be discovered after the rate of compensation shall have been established or compensation terminated, in any case the director of labor and industries, through and by means of the division of industrial insurance, may, upon the application of the beneficiary, *made within three years after the establishment or termination of such compensation*, or upon his own motion, readjust for further application the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payment: *Provided*, Any such applicant whose compensation has heretofore been established or terminated shall have three years from the taking effect of this act within which to apply for such readjustment."<sup>2</sup> (Italics supplied.)

Pursuant to a claim duly presented to the appellee, the appellant was paid from the State workmen's insurance fund on January 17, 1928, the sum of \$240 in final settlement for permanent partial disability and the case was closed. May 10, 1933 he filed with the appellee a petition for reopening of his claim on the ground that his condition had become aggravated due to the injury. The appellee dismissed the petition for the reason that the

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<sup>1</sup> Session Laws, 1911, c. 74, § 5 (h), p. 360; Session Laws, 1923, c. 136, § 2 (h), p. 397. The only change made in the quoted paragraph by the Act of 1923 was the substitution of the word "further" for the word "future."

<sup>2</sup> Session Laws, 1927, c. 310, § 4 (h), p. 844; Rem. Rev. Stat. § 7679 (h).

three year statute of limitations barred the claim. An appeal to the Supreme Court of Thurston County was dismissed, and the Supreme Court of the State affirmed the judgment. The case is here on appeal.

The appellant insists that at the date of his injury the statute conferred upon him not only a right to make his original claim and receive compensation, but a further right to file an additional claim, without limit as to time, and to receive readjusted compensation for aggravation of his condition due to his injury. This, he says, is a vested right, is property, and its enforcement may not be abolished or limited, consistently with the due process clause of the Fourteenth Amendment of the Federal Constitution.<sup>3</sup> The claim cannot be sustained.

The Washington Workmen's Compensation Act is compulsory. In the exercise of the State's police power it abolishes common law actions for negligence, imposes upon industry a levy calculated in accordance with the risk of injury to workmen, places the money collected in a state-administered fund, and substitutes for the employee's common law right of action a purely statutory right to payment from the fund of a sum adjusted to the character and extent of the injury.<sup>4</sup>

That the State may impose reasonable conditions upon the assertion of the claim does not admit of argument. Considerations justifying a reasonable limitation of time within which further increase of compensation due to aggravation of condition may be claimed are so obvious as hardly to require statement. Appellant does not urge that the prescription of a period of three years for presenting such a claim is unreasonable, but that it is beyond the

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<sup>3</sup> Below and in his assignments of error here the appellant asserted the section offends Article I, § 10, but, at the bar, he abandoned this contention, and we need not consider it.

<sup>4</sup> See *State ex rel. Davis-Smith Co. v. Clausen*, 65 Wash. 156; 117 Pac. 1101; *Mountain Timber Co. v. Washington*, 243 U. S. 219.

State's power. The section under attack merely limits the time for the assertion of the right, affects the remedy only, and that in a manner not unreasonable, arbitrary or oppressive. Such a limitation of time within which appellant's remedy must be pursued does not deprive him of due process.

The judgment is

*Affirmed.*

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WARNER, ADMINISTRATRIX, v. GOLTRA.

CERTIORARI TO THE SUPREME COURT OF MISSOURI.

No. 4. Submitted October 8, 1934.—Decided November 5, 1934.

1. In § 33 of the Merchant Marine Act of 1920, giving to "any seaman" injured in the course of his employment a cause of action for damages similar to that given by the statutes of the United States to railway employees, the term "any seaman" includes the master of the vessel. P. 156.
  2. This provision should be construed liberally; "seaman" in this particular context should be interpreted in its broad sense, not in the narrower sense distinguishing the crew from the master, found in other statutes; and this accords with the purpose of the Act as revealed by its history and by other legislation *in pari materia*. Pp. 157-159.
  3. Section 713, c. 18, of Title 46 of the U. S. Code, purporting to define master and seaman, must be confined to the sections in chapter 18 which were derived from the same earlier legislation as § 713; it is inapplicable to § 33 of the Merchant Marine Act of 1920, placed in the same chapter 18 by the compilers of the Code. P. 160.
  4. The compilers of the U. S. Code were not authorized by Congress to amend existing law. P. 161.
- 334 Mo. 396; 67 S. W. (2d) 47, reversed.

CERTIORARI, 292 U. S. 617, to review the affirmance of a judgment dismissing the complaint in an action for damages for the death of the master of a vessel. The action was brought by the administratrix of the master against the owner of the vessel.